

# Order

Michigan Supreme Court  
Lansing, Michigan

December 29, 2010

Marilyn Kelly,  
Chief Justice

ADM File No. 2008-39

Michael F. Cavanagh  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Diane M. Hathaway  
Alton Thomas Davis,  
Justices

Amendment of Rules 6.425  
and 6.610 of the  
Michigan Court Rules

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On order of the Court, the following amendments are adopted and effective January 1, 2011.

[The present language is amended below with additions indicated in underlining and deletions indicated in strikeover.]

## Rule 6.425 Sentencing; Appointment of Appellate Counsel

### (A) Presentence Report; Contents.

- (1) Prior to sentencing, the probation officer must investigate the defendant's background and character, verify material information, and report in writing the results of the investigation to the court. The report must be succinct and, depending on the circumstances, include:
  - (1)-(12) [Relettered (a)-(l), but otherwise unchanged.]
- (2) A presentence investigation report shall not include any address or telephone number for the home, workplace, school, or place of worship of any victim or witness, or a family member of any victim or witness, unless an address is used to identify the place of the crime or to impose conditions of release from custody that are necessary for the protection of a named individual. Upon request, any other address or telephone number that would reveal the location of a victim or witness or a family member of a victim or witness shall be exempted from disclosure unless an address is used to identify the place of the crime or to impose conditions of release from custody that are necessary for the protection of a named individual.
- (3) Regardless of the sentence imposed, the court must have a copy of the presentence report and of any psychiatric report sent to the Department of

Corrections. If the defendant is sentenced to prison, the copies must be sent with the commitment papers.

- (B) Presentence Report; Disclosure Before Sentencing. The court must provide copies of the presentence report to the prosecutor and the defendant's lawyer, or the defendant if not represented by a lawyer, at a reasonable time, but not less than two business days, before the day of sentencing. The prosecutor and the defendant's lawyer, or the defendant if not represented by a lawyer, may retain a copy of the report or an amended report. If the presentence report is not made available to the prosecutor and the defendant's lawyer, or the defendant if not represented by a lawyer, at least two business days before the day of sentencing, the prosecutor and the defendant's lawyer, or the defendant if not represented by a lawyer, shall be entitled, on oral motion, to an adjournment of the day of sentencing to enable the moving party to review the presentence report and to prepare any necessary corrections, additions, or deletions to present to the court. ~~The presentence report shall not include the following information about any victim or witness: home address, home telephone number, work address, or work telephone number, unless an address is used to identify the place of the crime.~~ The court may exempt from disclosure information or diagnostic opinion that might seriously disrupt a program of rehabilitation and sources of information that have been obtained on a promise of confidentiality. When part of the report is not disclosed, the court must inform the parties that information has not been disclosed and state on the record the reasons for nondisclosure. To the extent it can do so without defeating the purpose of nondisclosure, the court also must provide the parties with a written or oral summary of the nondisclosed information and give them an opportunity to comment on it. The court must have the information exempted from disclosure specifically noted in the report. The court's decision to exempt part of the report from disclosure is subject to appellate review.

(C)-(G) [Unchanged.]

#### Rule 6.610 Criminal Procedure Generally

(A)-(E) [Unchanged.]

(F) Sentencing.

(1) For sentencing, the court shall:

- (a) require the presence of the defendant's attorney, unless the defendant does not have one or has waived the attorney's presence;

- (b) provide copies of the presentence report (if a presentence report was prepared) to the prosecutor and the defendant's lawyer, or the defendant if not represented by a lawyer, at a reasonable time, but not less than two business days before the day of sentencing. The prosecutor and the defendant's lawyer, or the defendant if not represented by a lawyer, may retain a copy of the report or an amended report. If the presentence report is not made available to the prosecutor and the defendant's lawyer, or the defendant if not represented by a lawyer, at least two business days before the day of sentencing, the prosecutor and the defendant's lawyer, or the defendant if not represented by a lawyer, shall be entitled, on oral motion, to an adjournment to enable the moving party to review the presentence report and to prepare any necessary corrections, additions or deletions to present to the court, or otherwise advise the court of circumstances the prosecutor or defendant believes should be considered in imposing sentence. ~~The presentence report shall not include the following information about any victim or witness: home address, home telephone number, work address, work telephone number, or any other information prohibited from disclosure pursuant to MCL 780.751 et seq., unless an address is used to identify the place of the crime.~~ A presentence investigation report shall not include any address or telephone number for the home, workplace, school, or place of worship of any victim or witness, or a family member of any victim or witness, unless an address is used to identify the place of the crime or to impose conditions of release from custody that are necessary for the protection of a named individual. Upon request, any other address or telephone number that would reveal the location of a victim or witness or a family member of a victim or witness shall be exempted from disclosure unless an address is used to identify the place of the crime or to impose conditions of release from custody that are necessary for the protection of a named individual.
- (c) inform the defendant of credit to be given for time served, if any.

(2)-(3) [Unchanged.]

(G)-(H) [Unchanged.]

Staff comment: This order codifies statutory changes enacted as 2010 PA 247 and 2010 PA 248.

The staff comment is not an authoritative construction by the Court.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

December 29, 2010

*Corbin R. Davis*

Clerk